

# Mechanic's Liens



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# What is a Mechanic's Lien?

**A Mechanic's Lien is a security device, publicly filed, that lets others know that one is claiming entitlement to payment on a Construction Project.**

# What is the purpose of a Mechanic's Lien?

# PURPOSE OF FILING A MECHANIC'S LIEN

The Purpose of a Mechanic's Lien is to protect anyone who has improved real property: laborers, materialmen, contractors, subcontractors, architects, engineers and suppliers who have added value to the real property of another.

# FACTS TRUE TO Private Liens

- Lien attaches to the Property
- Purpose is to acquire an enforceable security interest in the property
- To put purchasers on notice that there is a lien or charge on the property & they are purchasing subject to the lien i.e. there is a charge against the property

# What you Need to File a Private Lien:

- Lot & Block
- Entity or Person who owns the Property
- Last day work performed/materials supplied
- Entity that the Lienor Contracted with or Employer for Laborer
- Amount Due

# Liens Filed on Public Works Projects

- §5 of NY Lien Law: If you have performed labor or furnished materials for construction or demolition of a public improvement, you are entitled to file a lien upon “moneys of the state or such public corporation applicable to the construction or demolition.”

**The Lien Attaches Solely to the Funds of the Agency that are due under the Contract.**

## Lien Law Section (5)

### Liens under Contracts for Public Improvements

A person performing labor for or furnishing materials to a contractor, his or her subcontractor or legal representative, for the construction or demolition of a public improvement pursuant to a contract by such contractor with the [public entity] and any trust fund to which benefits and wage supplements are due ... for the benefit of such person performing labor, shall have a lien for the principal and interest of the value or agreed price of such labor, including benefits and wage supplements due or payable for the benefit of any person performing labor, or materials upon the moneys of the state or of such corporation applicable to the construction or demolition of such improvement ...



## Lien Law Section (5)

### Liens under Contracts for Public Improvements

- §5 of NY Lien Law Where no public fund has been established for the financing of a public improvement with cost in excess of \$250,000, the CFO of the public owner requires the private entity for whom the public improvement is being made to post, or cause to be posted, a bond (or other undertaking) guaranteeing prompt payment of moneys due the contractor, subcontractors and to all persons furnishing labor or materials to the contractor or subcontractors in the prosecution of the work on the public improvement.

## Liens Filed on Public Works Projects

In a Public Works Project the Mechanic's Lien attaches to the Funds appropriated for the Project.

You cannot file a lien against Public Property.

# Liens Filed on Public Works Projects

## *In order to file A Public Works Lien you Must have the Following:*

1. Name of Agency in charge of the work, i.e.: Owner
2. Are there Funds left to available to Lien?
3. Is the Improvement so integrated as to become part of the property?
4. Lien cannot be for sum greater than the sum earned and unpaid on the contract at the time of filing the notice of lien;
5. Owner will not be responsible for paying a sum greater than the value or agreed upon price of the labor and materials remaining unpaid.

# Who can file a Mechanic's Lien?

# Who can file A Mechanic's Lien?

All parties above who perform labor or furnish materials for the improvement of real property with the consent or at the request of the owner, its agents, contractor or subcontractor Improvement must result in a permanent change to the property

## EXAMPLES:

1. Contractor
2. Subcontractor
3. Laborer
4. Supplier/Materialmen
5. Landscaper
6. Gardener, Nurseryman,
7. Architect, Engineers and Surveyors
8. Construction Managers

## Type of Work or Materials for Which a Lien May be Filed:

*Lienable Items: Improvement must be so integrated into structure that it becomes a part of it.*

1. Labor – any labor expended to directly benefit the property
2. Supervision of the actual construction performed at Owner's request
3. Materials including materials delivered to site but not incorporated into property

Type of Work or Materials for Which a Lien May be Filed  
(con't):

*Lienable Items: Improvement must be so integrated into structure that it becomes a part of it.*

4. Rental Equip: Reasonable rental value;
5. Temporary work: only if necessary to complete permanent work, ie: temporary roadwork to complete permanent road;
6. Extra Work & change orders – can be included when owner consented to changes change order must be approved.

# Miscellaneous Lienable Items

## MISC ITEMS:

1. Wall to Wall Carpet
2. Drawings & Specs
3. Appliances: installed refrigerators, a/c, washers & dryers
4. Electrical fixtures installed
5. Supplying temporary gravel & fill for a construction site
6. Architect's professional services
7. Material used in an improvement and supplied to an owner, contractor, subcontractor



# Items that cannot be Included in a Mechanic's Lien

These items are NOT lienable:

1. Mowing, trimming or spraying plants
2. Attorney's fees
3. Lost profits on uncompleted work are not lienable. Profit on completed work is permitted
4. Acceptance of construction debris or waste
5. Materials supplied to a materialman
6. Delay damages

# Should you file a Mechanic's Lien?

- Filing a Lien Notifies the Owner that Lienor is Not Getting Paid
- However, a Lien often Stops Flow of Money from the Owner to the GC
- If there are no Funds Left to Be Paid from the Owner to the GC - the Lienor is without Recourse Under the Lien Law. No Fund to Which Lien Can Attach.

# Should you file a Mechanic's Lien?

- If the Owner makes payments to a GC after lien is filed, the Owner does so at its own peril and could be forced to pay twice.
- Owner's Liability is Measured from the date Notice of the Lien is Filed
- On Public Works Contractor with Contract with Agency is Not entitled to File a Lien  
(Language of Lien Law is "A person performing labor for or furnishing materials *to a contractor*")

# QUESTIONS AND ANSWERS

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